Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006

Message Text

PAGE 01 STATE 125210

42
ORIGIN EB-07

INFO OCT-01 ISO-00 /008 R

66604
DRAFTED BY EB/OA:MH TYLES:VLV
APPROVED BY EB/OA:MHSTYLES
---------- 124120
O 301550Z MAY 75
FM SECSTATE WASHDC
TO AMEMBASSY LONDON IMMEDIATE

LIMITED OFFICIAL USE STATE 125210

FOLLOWING SENT ACTION GENEVA INFO PARIS FROM SECSTATE WASHDC 29 MAY 75:

QUOTE LIMITED OFFICIAL USE STATE 125210

E.O. 11652: N/A
TAGS: EAIR, UK
SUBJECT: CIVAIR - US-UK DISCUSSIONS

FOR ASST. SECRETARY ENDERS FROM WALDMANN

1. PER YOUR REQUEST WALDMANN CONTACTED SEAWELL, PRESIDENT OF PAN AM, MORNING OF MAY 29 TO FIND OUT REASONS FOR PAN AM ACTIONS. SEAWELL REPORTED THAT THE COMPLIANCE PROGRAM DEVELOPED BY THE IATA EXECUTIVE COMMITTEE WAS UNACCEPTABLE, NOT BECAUSE OF ITS CONTENT BUT BECAUSE IT DOES NOT ADDRESS THE REAL PROBLEMS. IT WAS STATED AT THE EXECUTIVE COMMITTEE MEETING THAT MANY CARRIERS INCLUDING BRITISH AIRWAYS WOULD NOT BE ABLE TO TERMINATE AGREEMENTS NOW IN EFFECT TO PAY IN EXCESS OF THE PROPOSED 7.5 PERCENT COMMISSION UNTIL NOVEMBER. A FIGURE OF 5 PERCENT IN ADDITION TO THE AGREED 7 PERCENT WAS MENTIONED BY SEAWELL AS CURRENTLY BEING PAID BY BRITISH AIRWAYS. THE ENFORCEMENT PACKAGE WOULD NOT DEAL WITH SUCH CASES, NOR SHOULD THE USG SANCTION THE AGREEMENT BY IATA CARRIERS TO SUCH EXCEPTIONS. SEAWELL
LIMITED OFFICIAL USE
LIMITED OFFICIAL USE

PAGE 02 STATE 125210

ALSO MENTIONED THAT WORK IS BEING DONE WITHIN IATA ON WHOLESALE COMMISSIONS BUT NOT ON RETAIL COMMISSIONS, AND BOTH SHOULD BE STUDIED BEFORE A TOTAL COMMISSION STRUCTURE IS AGREED. AS A PRACTICAL MATTER, SEAWELL REPORTED HAT

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006

PAN AM WOULD NOT GO ABOVE THE 7.5 PERCENT RATE EXCEPT IN SPECIAL CIRCUMSTANCES WHICH OTHER CARRIERS WOULD ALSO USE TO JUSTIFY RATES IN EXCESS OF 7.5 PERCENT.

2. IN SPECIFIC RESPONSE TO YOUR QUESTION D, WOULD PAN AM WITHDRAW ITS NEGATIVE VOTE IF IATA EXTENDED THE MAIL VOTE DEADLINE, SEAWELL PROPOSED THAT PAN AM WOULD BE GLAD TO SEE IATA RECONSIDER THE ENFORCEMENT PACKAGE BUT PAN AM FELT THAT THIS WOULD ONLY BE APPROPRIATE IF AN ADVANCE DATE (UNSPECIFIED BY PAN AM) WERE SET FOR ITS EFFECTIVENESS, IF CARRIERS WERE ABLE TO CERTIFY BY THAT DATE THAT THEY WERE NO LONGER BOUND BY CONTRACTUAL COMMITMENTS TO PAY IN EXCESS OF THE AGREED RATE, IF NO NEW COMMITMENTS BEYOND THE ADVANCE DATE WERE ENTERED INTO, AND IF WORK WERE DONE TO TIE IN BOTH THE WHOLESALE AND RETAIL RATE STRUCTURES. GIVEN THE STATEMENT AT THE EXECUTIVE COMMITTEE, SEAWELL FELT THIS COULD NOT BE DONE WITH AN EFFECTIVE DATE EARLIER THAN NOVEMBER.

3. GIVEN THE RELUCTANCE OF THE JUSTICE DEPARTMENT TO SANCTION A BINDING ENFORCEMENT COMMISSION RATE, WE SHOULD BE CAUTIOUS IN PUSHING FOR A MANDATORY RATE. FURTHERMORE THE AGREEMENT WE REACHED WITH THE UK ASSUMED UK AUTHORITY TO ENFORCE ITS VIEWS ON PAN AM, AN AUTHORITY WHICH NO LONGER EXISTS GIVEN LAST FRIDAY'S COURT DECISION. THE PRESSURE BEING PLACED ON US AND PAN AM FOR AN EARLY AGREEMENT MAY NOT BE IN THE INTEREST OF PAN AM OR IN A STABLE LONG TERM SOLUTION. PAN AM HAS DETAILED ITS OBJECTIONS IN A LETTER TO YOU AND TO CHAIRMAN ROBSON, THE TEXT OF WHICH FOLLOWS:

QUOTE. THE PURPOSE OF THIS LETTER IS TO PROVIDE YOU WITH UP-TO-DATE INFORMATION ON THE STATUS OF CURRENT EFFORTS TO REACH AN AGREEMENT ON THE STRUCTURE OF COMMISSIONS PAID TO TRAVEL AGENTS FOR THE SALE OF INTERNATIONAL AIR TRANSPORTATION.

LIMITED OFFICIAL USE
LIMITED OFFICIAL USE

PAGE 03 STATE 125210

AT THE OUTSET I WISH TO EXPRESS MY APPRECIATION FOR THE SUPPORT WHICH PAN AM HAS RECEIVED FROM THE UNITED STATES GOVERNMENT IN THE FACE OF HEAVY PRESSURES BY CERTAIN FOREIGN GOVERNMENTS DESIGNED TO COMPEL PAN AM TO ABANDON ITS EFFORTS TO REFORM THE COMMISSION SYSTEM. THESE PRESSURES INCLUDED IN THE CASE OF THE UNITED KINGDOM THE UTTERLY UNJUSTIFIED THREAT OF TERMINATION OF ALL SERVICES.

AS YOU KNOW, PAN AM HAS SOUGHT INSOFAR AS POSSIBLE TO DEAL WITH SUCH GOVERNMENT PRESSURES WITHOUT CALLING ON THE UNITED STATES GOVERNMENT. PAN AM BELIEVES, AS DOES THE DEPARTMENT OF STATE AND THE CIVIL AERONAUTICS BOARD, THAT

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006

THE RATE ARTICLE IN UNITED STATES BILATERAL AGREEMENTS DOES NOT IN ANY WAY GOVERN THE PAYMENT OF COMMISSIONS TO TRAVEL AGENTS AND THUS DOES NOT AUTHORIZE FOREIGN GOVERNMENTS TO REQUIRE PAN AM TO OBSERVE CERTAIN COMMISSION LEVELS AS A CONDITION TO CONTINUED ENJOYMENT OF OPERATING RIGHTS CONFERRED BY THESE BILATERALS. PAN AM, NEVERTHELESS, HAS INDICATED ITS WILLINGNESS TO OBSERVE COMMISSION LEVELS PRESCRIBED BY FOREIGN GOVERNMENTS IN THOSE CASES WHERE IT WAS CLEAR THAT THE POWER SO TO PRESCRIBE EXISTED IN NATIONAL LAW, THAT THE SAME REQUIREMENTS WOULD BE IMPOSED ON ALL OTHER CARRIERS, AND THAT THE REQUIREMENTS WOULD BE ENFORCED.

SETTLEMENT OF A LEGAL ACTION HAS BEEN REACHED WITH THE GERMAN GOVERNMENT ON THIS BASIS. PAN AM MADE A SIMILAR PROPOSAL TO THE UNITED KINGDOM GOVERNMENT. THAT GOVERNMENT, HOWEVER, INSISTED ON ASSURANCES THAT PAN AM WOULD ALSO COMPLY WITH THE SAME PRESCRIBED COMMISSION LEVELS IN THE UNITED STATES AND ALL OTHER COUNTRIES ON SALES OF TRANSPORTATION TO UNITED KINGDOM TERRITORY. THIS PAN AM REFUSED TO DO AND UNDER THREAT OF IMMEDIATE SUSPENSION OF ITS OPERATING RIGHTS IT PETITIONED TO THE UNITED KINGDOM COMMERCIAL COURT.

ON MAY 23, 1975 JUDGE DONALDSON FOUND FOR PAN AM ON ALL COUNTS. HIS DECISION IS OF VERY BROAD SIGNIFICANCE BECAUSE IT INTERPRETS THE RATE PROVISIONS SET OUT IN THE BERMUDA AGREEMENT WHICH ARE SUBSTANTIALLY THE SAME AS
LIMITED OFFICIAL USE
LIMITED OFFICIAL USE

THOSE IN ALL OTHER UNITED STATES BILATERALS. THE JUDGE HELD THAT THE RATE PROVISIONS DO NOT AUTHORIZE THE UNITED KINGDOM GOVERNMENT TO AMEND A UNITED STATES CARRIER'S OPERATING PERMIT BY INCLUDING A CONDITION RELATING TO THE RATE OF COMMISSION TO BE PAID TO AGENTS, NOTLITHSTANDING THE APPARENT EXISTENCE IN UNITED KINGDOM STATUTES OF THE POWER TO SO AMEND SUCH PERMITS.

THIS, AS WE UNDERSTAND IT, IS PRECISELY THE CONVERSE OF THE POSITION TAKEN BY THE UNITED KINGDOM DELEGATION IN THE NEGOTIATIONS IN WASHINGTON WHICH WERE CONDUCTED AT THE SAME TIME AS THE COURT PROCEEDING, AND WERE CONCLUDED THE EVENING BEFORE JUDGE DONALDSON'S DECISION. THE DECISION SHOULD BE OF CONSIDERABLE ASSISTANCE TO THE UNITED STATES GOVERNMENT IN MEETING ANY SIMILAR ARGUMENTS ADVANCED BY OTHER GOVERNMENTS, AS IT CLEARLY WOULD HAVE BEEN IN THE CASE OF THE UNITED KINGDOM NEGOTIATIONS.

ATTACHED IS A COPY OF A LETTER I HAVE JUST DISPATCHED TO MR. HAMMARSKJOLD OF IATA. IT STATES PAN AM'S POSITION ON

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006

IATA'S EFFORTS TO CONSTRUCT AN EFFECTIVE ENFORCEMENT SYSTEM AND DEVELOP A NEW COMMISSION SYSTEM. IN SHORT, WE FEEL THAT PROGRESS WAS MADE AT NICE BUT NOT ENOUGH TO ASSURE US THAT ANY NEW COMMISSION RESOLUTION CAN BE ENFORCED IN THE NEXT SEVERAL MONTHS. WE WILL CONTINUE TO WORK CONSTRUCTIVELY WITH IATA TO ACHIEVE STABILITY IN THE COMMISSION STRUCTURE IN ACCORDANCE WITH THE INFORMAL AGREEMENT REACHED IN THE BRITISH TALKS. END QUOTE. INGERSOLL UNQUOTE INGERSOLL

LIMITED OFFICIAL USE

<< END OF DOCUMENT >>

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006

Message Attributes

Automatic Decaptioning: X
Capture Date: 26 AUG 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AIR FARES, AIR ROUTES, AVIATION AGREEMENTS, CIVIL AVIATION, NEGOTIATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 30 MAY 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: MorefiRH
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975STATE125210
Document Source: ADS
Document Unique ID: 00
Drafter: EB/OA:MH TYLES:VLV
Enclosure: n/a
Executive Order: N/A
Errors: n/a
Film Number: D750189-1224
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t197505104/baaaalcz.tel
Line Count: 174
Locator: TEXT ON-LINE, TEXT ON MICROFILM
Office: ORIGIN EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: MorefiRH
Review Comment: n/a
Review Content Flags:
Review Date: 14 MAY 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <14 MAY 2003 by CunninFX>; APPROVED <15 MAY 2003 by MorefiRH>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
05 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: <DBA CORRECTED> jms 971016
Subject: n/a
TAGS: EAIR, UK, US, PAN AM
To: LONDON
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006